

AMENDED IN SENATE MAY 2, 2006  
AMENDED IN SENATE APRIL 18, 2006

**SENATE BILL**

**No. 1633**

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**Introduced by Senator Ashburn**

February 24, 2006

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~~An act to amend Section 70 of, and to repeal Section 74.5 of, the~~ *An act to amend Sections 70 and 74.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1633, as amended, Ashburn. Property tax: seismic retrofitting: tax assessments.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution excludes from classification as "new construction" the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following the reconstruction or improvement. Pursuant to an authorization in the California Constitution, existing law excludes from classification as "new construction" the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

A proposed amendment to the California Constitution, Senate Constitutional Amendment 28 of the 2005-06 Regular Session, would eliminate, ~~for purposes of the 15-year exclusion from classification as “new construction” of structures constructed of unreinforced masonry bearing wall construction, the requirement that the reconstruction or improvement to those structures be necessary to comply with a local ordinance relating to seismic safety, as specified. That amendment would additionally~~ *and would instead generally* exclude from classification as “new construction” the specific portion of construction or reconstruction of seismic retrofitting components on an existing structure.

This bill would implement the proposed amendment to the California Constitution, and would also ~~impose new duties on local building departments with respect to reporting the value of excluded improvements for structures constructed of unreinforced masonry wall construction. By creating new duties for local officials, this bill would impose a state-mandated local program. Also, by requiring specified persons to certify information regarding specific improvements to structures constructed of unreinforced masonry bearing wall construction, this bill would create a new crime, thereby imposing a state-mandated local program.~~ *specify that those that qualified for the 15-year exclusion relating to structures constructed of unreinforced masonry also qualify for the general exclusion for seismic retrofitting components.*

(2) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains~~

~~costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~(4)~~

(3) This bill would take effect immediately as a tax levy but would become operative, as specified, only if Senate Constitutional Amendment 28 of the 2005-06 Regular Session is approved by the voters at the November 7, 2006, statewide general election.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 70 of the Revenue and Taxation Code is  
2     amended to read:

3     70. (a) “Newly constructed” and “new construction” means:

4     (1) Any addition to real property, whether land or  
5     improvements (including fixtures), since the last lien date; and

6     (2) Any alteration of land or of any improvement (including  
7     fixtures) since the last lien date that constitutes a major  
8     rehabilitation thereof or that converts the property to a different  
9     use.

10    (b) Any rehabilitation, renovation, or modernization that  
11    converts an improvement or fixture to the substantial equivalent  
12    of a new improvement or fixture is a major rehabilitation of that  
13    improvement or fixture.

14    (c) Notwithstanding the provisions of subdivisions (a) and (b),  
15    where real property has been damaged or destroyed by  
16    misfortune or calamity, “newly constructed” and “new  
17    construction” does not mean any timely reconstruction of the real  
18    property, or portion thereof, where the property after  
19    reconstruction is substantially equivalent to the property prior to  
20    damage or destruction. Any reconstruction of real property, or  
21    portion thereof, that is not substantially equivalent to the  
22    damaged or destroyed property, shall be deemed to be new  
23    construction and only that portion that exceeds substantially  
24    equivalent reconstruction shall have a new base year value  
25    determined pursuant to Section 110.1.

26    ~~(d) (1) Notwithstanding the provisions of subdivisions (a) and~~  
27    ~~(b), where a structure must be improved to comply with local~~  
28    ~~ordinances on seismic safety, “newly constructed” and “new~~

1 construction” does not mean the portion of reconstruction or  
2 improvement to a structure, constructed of unreinforced masonry  
3 bearing wall construction, necessary to comply with the local  
4 ordinance. This exclusion shall remain in effect during the first  
5 15 years following that reconstruction or improvement (unless  
6 the property is purchased or changes ownership during that  
7 period, in which case the provisions of Chapter 2 (commencing  
8 with Section 60) of this division shall apply).

9 (2) In the sixteenth year following the reconstruction or  
10 improvement referred to in paragraph (1), the assessor shall place  
11 on the roll the current full cash value of the portion of  
12 reconstruction or improvement to the structure that was excluded  
13 pursuant to this subdivision.

14 (3) The governing body that enacted the local ordinance shall  
15 issue a certificate of compliance upon the request of the owner  
16 who, pursuant to a notice or permit issued by the governing body  
17 that specified that the reconstruction or improvement is necessary  
18 to comply with a seismic safety ordinance, so reconstructs or  
19 improves his or her structure in accordance with the ordinance.  
20 The certificate of compliance shall be filed by the property owner  
21 with the county assessor not later than six months after the  
22 completion of the project. The failure to file a certificate of  
23 completion within the prescribed filing period shall be deemed a  
24 waiver of the exclusion for that year.

25 (e) (1) —

26 (d) (1) Notwithstanding the provisions of subdivisions (a) and  
27 (b), where a tank must be improved, upgraded, or replaced to  
28 comply with federal, state, and local regulations on underground  
29 storage tanks, “newly constructed” and “new construction” does  
30 not mean the improvement, upgrade, or replacement of a tank to  
31 meet compliance standards, and the improvement, upgrade, or  
32 replacement shall be considered to have been performed for the  
33 purpose of normal maintenance and repair.

34 (2) Notwithstanding the provisions of subdivisions (a) and (b),  
35 where a structure, or any portion thereof, was reconstructed, as a  
36 consequence of completing work on an underground storage tank  
37 to comply with federal, state, and local regulations on these  
38 tanks, timely reconstruction of the structure shall be considered  
39 to have been performed for the purpose of normal maintenance  
40 and repair where the structure, or portion thereof, after

1 reconstruction is substantially equivalent to the prior structure in  
2 size, utility, and function.

3 *SEC. 2. Section 74.5 of the Revenue and Taxation Code is*  
4 *amended to read:*

5 74.5. (a) For purposes of ~~paragraph (4) of subdivision (e) of~~  
6 ~~subdivision (a) of~~ Section 2 of Article XIII A of the California  
7 Constitution, “newly constructed” and “new construction” does  
8 not include ~~seismic retrofitting improvements and improvements~~  
9 ~~utilizing earthquake hazard mitigation technologies, to that~~  
10 ~~portion of an existing building or structure that consists of the~~  
11 ~~construction or reconstruction of seismic retrofitting~~  
12 ~~components, as defined in this section.~~

13 (b) For purposes of this section, *all of the following apply:*

14 (1) “Seismic retrofitting components” means seismic  
15 retrofitting improvements and improvements utilizing earthquake  
16 hazard mitigation technologies.

17 ~~(1)–~~

18 (2) “Seismic retrofitting improvements” means retrofitting or  
19 reconstruction of an existing building or structure, to abate  
20 falling hazards from structural or nonstructural components of  
21 any building or structure including, but not limited to, parapets,  
22 appendages, cornices, hanging objects, and building cladding that  
23 pose serious danger. “Seismic retrofitting improvements” also  
24 means either structural strengthening or providing the means  
25 necessary to resist seismic force levels that would otherwise be  
26 experienced by an existing building or structure during an  
27 earthquake, so as to significantly reduce hazards to life and safety  
28 while also providing for the substantially safe ingress and egress  
29 of building occupants during and immediately after an  
30 earthquake. “Seismic retrofitting improvements” does not include  
31 alterations, such as new plumbing, electrical, or other added  
32 finishing materials, made in addition to seismic-related work  
33 performed on an existing structure. “Seismic retrofitting”  
34 includes, but is not limited to, those items referenced in  
35 Appendix Chapters 5 and 6 of the Uniform Code for Building  
36 Conservation of the International Conference of Building  
37 Officials.

38 ~~(2)–~~

39 (3) “Improvements utilizing earthquake hazard mitigation  
40 technologies” means improvements to existing buildings

1 identified by a local government as being hazardous to life in the  
2 event of an earthquake. These improvements shall involve  
3 strategies for earthquake protection of structures. These  
4 improvements shall use technologies such as those referenced in  
5 Part 2 (commencing with Section 101) of Title 24 of the  
6 California Building Code and similar seismic provisions in the  
7 Uniform Building Code.

8 (c) The property owner, primary contractor, civil or structural  
9 engineer, or architect shall certify to the building department  
10 those portions of the project that are seismic retrofitting  
11 ~~improvements or improvements utilizing earthquake hazard~~  
12 ~~mitigation technologies components, as defined in this section.~~  
13 Upon completion of the project, the building department shall  
14 ~~report the value of those to the county assessor the costs of the~~  
15 ~~portions of the project that are seismic retrofitting improvements~~  
16 ~~and improvements utilizing earthquake hazard mitigation~~  
17 ~~technologies to the county assessor components.~~

18 (d) In order to receive the exclusion, the property owner shall  
19 notify the assessor prior to, or within 30 days of, completion of  
20 the project that he or she intends to claim the exclusion for  
21 seismic retrofitting ~~improvements or improvements utilizing~~  
22 ~~earthquake hazard mitigation technologies components.~~ The State  
23 Board of Equalization shall prescribe the manner and form for  
24 claiming the exclusion. All documents necessary to support the  
25 exclusion shall be filed by the property owner with the assessor  
26 not later than six months after the completion of the project.

27 ~~(e) The exclusion from “newly constructed” and “new~~  
28 ~~construction” under this section is not applicable to seismic~~  
29 ~~safety reconstruction and improvements that qualify for the~~  
30 ~~exclusion provided in subdivision (d) of Section 70.~~

31 ~~(f) This section shall only apply to projects completed on or~~  
32 ~~after January 1, 1991.~~

33 *(e) The Legislature finds and declares that the reconstruction*  
34 *and improvement actions that were excluded from “newly*  
35 *constructed” and “new construction” by Chapter 1187 of the*  
36 *Statutes of 1983 meet the requirements of “construction or*  
37 *reconstruction of seismic retrofitting components on an existing*  
38 *structure,” as provided in the act that amended this subdivision.*  
39 *Therefore, a structure constructed of unreinforced masonry*  
40 *bearing wall construction that is receiving a 15-year new*

1 *construction exclusion as provided by Chapter 1187 of the*  
2 *Statutes of 1983 on November 7, 2006, shall continue to receive,*  
3 *pursuant to this section, an exclusion after the 15-year period*  
4 *expires, unless the property is purchased or changes ownership,*  
5 *in which case Chapter 2 (commencing with Section 60) applies.*

6 SECTION 1. ~~Section 70 of the Revenue and Taxation Code is~~  
7 ~~amended to read:~~

8 70. (a) ~~“Newly constructed” and “new construction” means:~~

9 ~~(1) Any addition to real property, whether land or~~  
10 ~~improvements (including fixtures), since the last lien date; and~~

11 ~~(2) Any alteration of land or of any improvement (including~~  
12 ~~fixtures) since the last lien date that constitutes a major~~  
13 ~~rehabilitation thereof or that converts the property to a different~~  
14 ~~use.~~

15 ~~(b) Any rehabilitation, renovation, or modernization that~~  
16 ~~converts an improvement or fixture to the substantial equivalent~~  
17 ~~of a new improvement or fixture is a major rehabilitation of that~~  
18 ~~improvement or fixture.~~

19 ~~(c) Notwithstanding subdivisions (a) and (b), where real~~  
20 ~~property has been damaged or destroyed by misfortune or~~  
21 ~~calamity, “newly constructed” and “new construction” does not~~  
22 ~~mean any timely reconstruction of the real property, or portion~~  
23 ~~thereof, where the property after reconstruction is substantially~~  
24 ~~equivalent to the property prior to damage or destruction. Any~~  
25 ~~reconstruction of real property, or portion thereof, that is not~~  
26 ~~substantially equivalent to the damaged or destroyed property,~~  
27 ~~shall be deemed to be new construction and only that portion that~~  
28 ~~exceeds substantially equivalent reconstruction shall have a new~~  
29 ~~base year value determined pursuant to Section 110.1.~~

30 ~~(d) (1) Notwithstanding subdivisions (a) and (b), “newly~~  
31 ~~constructed” and “new construction” do not include the specific~~  
32 ~~portion of construction or reconstruction of seismic retrofitting~~  
33 ~~components, as defined in subdivision (f), on an existing~~  
34 ~~structure.~~

35 ~~(2) The property owner, primary contractor, civil or structural~~  
36 ~~engineer, or architect shall certify to the building department~~  
37 ~~those portions of the project that are seismic retrofitting~~  
38 ~~components, as defined in subdivision (f). Upon completion of~~  
39 ~~the project, the building department shall report to the county~~

1 assessor the costs of the portions of the project that are seismic  
2 retrofitting components.

3 (3) In order to receive the exclusion, the property owner shall  
4 notify the assessor prior to, or within 30 days of, completion of  
5 the project that he or she intends to claim the exclusion for  
6 seismic retrofitting components. The State Board of Equalization  
7 shall prescribe the manner and form for claiming the exclusion.  
8 All documents necessary to support the exclusion shall be filed  
9 by the property owner with the assessor not later than six months  
10 after the completion of the project.

11 (4) This subdivision shall only apply to projects completed on  
12 or after January 1, 1991.

13 (e) (1) Notwithstanding the provisions of subdivisions (a) and  
14 (b), where a tank must be improved, upgraded, or replaced to  
15 comply with federal, state, and local regulations on underground  
16 storage tanks, “newly constructed” and “new construction” does  
17 not mean the improvement, upgrade, or replacement of a tank to  
18 meet compliance standards, and the improvement, upgrade, or  
19 replacement shall be considered to have been performed for the  
20 purpose of normal maintenance and repair.

21 (2) Notwithstanding the provisions of subdivisions (a) and (b),  
22 where a structure, or any portion thereof, was reconstructed, as a  
23 consequence of completing work on an underground storage tank  
24 to comply with federal, state, and local regulations on these  
25 tanks, timely reconstruction of the structure shall be considered  
26 to have been performed for the purpose of normal maintenance  
27 and repair where the structure, or portion thereof, after  
28 reconstruction is substantially equivalent to the prior structure in  
29 size, utility, and function.

30 (f) For purposes of this section, all of the following apply:

31 (1) “Seismic retrofitting components” means seismic  
32 retrofitting improvements and improvements utilizing earthquake  
33 hazard mitigation technologies.

34 (2) “Seismic retrofitting improvements” means retrofitting or  
35 reconstruction of an existing building or structure, to abate  
36 falling hazards from structural or nonstructural components of  
37 any building or structure including, but not limited to, parapets,  
38 appendages, cornices, hanging objects, and building cladding that  
39 pose serious danger. “Seismic retrofitting improvements” also  
40 means either structural strengthening or providing the means



1 necessary to resist seismic force levels that would otherwise be  
2 experienced by an existing building or structure during an  
3 earthquake, so as to significantly reduce hazards to life and safety  
4 while also providing for the substantially safe ingress and egress  
5 of building occupants during and immediately after an  
6 earthquake. “Seismic retrofitting improvements” does not include  
7 alterations, such as new plumbing, electrical, or other added  
8 finishing materials, made in addition to seismic-related work  
9 performed on an existing structure. “Seismic retrofitting”  
10 includes, but is not limited to, those items referenced in  
11 Appendix Chapters 5 and 6 of the Uniform Code for Building  
12 Conservation of the International Conference of Building  
13 Officials.

14 (3) “Improvements utilizing earthquake hazard mitigation  
15 technologies” means improvements to existing buildings  
16 identified by a local government as being hazardous to life in the  
17 event of an earthquake. These improvements shall involve  
18 strategies for earthquake protection of structures. These  
19 improvements shall use technologies such as those referenced in  
20 Part 2 (commencing with Section 101) of Title 24 of the  
21 California Building Code and similar seismic provisions in the  
22 Uniform Building Code.

23 SEC. 2. Section 74.5 of the Revenue and Taxation Code is  
24 repealed.

25 SEC. 3. Notwithstanding Section 2229 of the Revenue and  
26 Taxation Code, no appropriation is made by this act and the state  
27 shall not reimburse any local agency for any property tax  
28 revenues lost by it pursuant to this act.

29 SEC. 4. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution for  
31 certain costs that may be incurred by a local agency or school  
32 district because, in that regard, this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the  
34 penalty for a crime or infraction, within the meaning of Section  
35 17556 of the Government Code, or changes the definition of a  
36 crime within the meaning of Section 6 of Article XIII B of the  
37 California Constitution.

38 However, if the Commission on State Mandates determines  
39 that this act contains other costs mandated by the state,  
40 reimbursement to local agencies and school districts for those

1 ~~costs shall be made pursuant to Part 7 (commencing with Section~~  
2 ~~17500) of Division 4 of Title 2 of the Government Code.~~

3 ~~SEC. 5.~~

4 *SEC. 4.* This act provides for a tax levy within the meaning of  
5 Article IV of the Constitution and shall go into immediate effect.

6 ~~SEC. 6.~~

7 *SEC. 5.* This act shall become operative only if Senate  
8 Constitutional Amendment 28 of the 2005-06 Regular Session is  
9 approved by voters at the November 7, 2006, statewide general  
10 election and, in that event, shall become operative on the date  
11 upon which this act is chaptered or the effective date of that  
12 measure, whichever is later.